



February 14, 2002

Mr. Richard W. Price
Chief of Police
City of LaMarque Police Department
431 Bayou Road
LaMarque, Texas 77568

OR2002-0708

Dear Mr. Price:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 158855.

The City of LaMarque Police Department (the "department") received a request for copies of and access to all accident reports and call log book entries generated during a specified period of time. You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted representative sample documents.¹

We note at the outset that the department failed to comply with the procedural requirements of section 552.301 of the Government Code. Section 552.301 provides in pertinent part that a governmental body that requests an attorney general decision must, within a reasonable time but not later than the fifteenth business day after the date of receiving the written request for information, submit to the attorney general a copy of the written request for information. *See Gov't Code § 552.301(e)(1)(B)*. However, as of the date of this letter, the department has failed to provide us with a copy of the written request.

¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

When a governmental body fails to submit a copy of the written request for information to us for review within the fifteen business day time period, the requested information at issue is presumed public. *See* Gov't Code § 552.302; *see also* *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). Although the submitted information is, thus, presumed public, we will address the department's claim that the information is excepted from disclosure under section 552.101 of the Government Code. *See* Gov't Code 552.302; *see also* Open Records Decision No. 150 at 2 (1977) (finding that compelling interest in overcoming presumption that information is public is demonstration that some other source of law makes information confidential or that third party interests are at stake).

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See* Gov't Code § 552.101. Section 552.101 encompasses information protected from disclosure by other statutes. We note that the submitted information contains accident report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *See id.* You do not inform us whether the requestor provided you with two or more of the pieces of information that are required to be provided under section 550.065(c)(4). Furthermore, since the department failed to provide us with a copy of the request for information, we have no basis for concluding that the requestor provided the department with this information. Accordingly, we conclude that the accident report forms are confidential under section 550.065(b) of the Transportation Code and, thus, are excepted from disclosure pursuant to section 552.101 of the Government Code.

You also claim that portions of the submitted dispatch ledger sheets are excepted from disclosure pursuant to section 552.101. As stated above, section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See* Open Records Decision Nos. 611 at 1 (1992) (relating to common-law privacy), 600 at 4 (1992) (relating to constitutional privacy), 478 at 2 (1987) (relating to statutory confidentiality). We note that the department has not asserted any law, and this office is not aware of any law, that makes dispatch ledger sheets confidential. Accordingly, the dispatch ledger sheets may not be withheld in their entirety pursuant to section 552.101 of the Government Code.

However, we note that the dispatch ledger sheets contain license plate numbers and what appears to be a driver's license number which may be subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. See Gov't Code § 552.130. If the license plate numbers and driver's license number were issued by the State of Texas, we conclude that the department must withhold those numbers from disclosure pursuant to section 552.130 of the Government Code. However, if the numbers were not issued by the State of Texas, we conclude that the department must release those numbers to the requestor.

In summary, the department must withhold from disclosure the submitted accident report forms pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold from disclosure any Texas driver's license and license plate numbers that are contained within the submitted dispatch ledger sheets pursuant to section 552.130 of the Government Code. The department must release the remaining information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839.

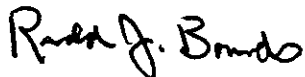
The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 158855

Enc. Submitted documents

cc: Mr. Eloy Guerra
Gulf Coast Marketing
2427 Kingston
Houston, Texas 77019
(w/o enclosures)